

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LONNER MELTON,

Plaintiff,

v.

DOUGLAS VASBINDER and
CORRECTIONAL OFFICER LOWE,

Defendants.

Case Number 07-15480
Honorable David M. Lawson
Magistrate Judge Mona K. Majzoub

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION,
GRANTING DEFENDANTS VASBINDER AND LOWE'S MOTION FOR SUMMARY
JUDGMENT, DENYING THE PLAINTIFF'S MOTION FOR EXTENSION OF TIME
TO FILE RESPONSE TO THE DEFENDANTS' MOTION FOR SUMMARY
JUDGMENT, AND DISMISSING THE CASE WITH PREJUDICE**

Presently before the Court is the report issued on March 3, 2009 by Magistrate Judge Mona K. Majzoub pursuant to 28 U.S.C. § 636(b), recommending that this Court grant motion for summary judgment in favor of the two remaining defendants in the case – defendants Vasbinder and Lowe. Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within ten days of service of the report, no objections have been filed thus far. On March 6, 2009, the plaintiff filed a motion for enlargement of time to file his "opposition to the defendant's motion for summary judgment"; however, the plaintiff never sought to extend the deadline for filing his objections to the magistrate judge's report and recommendation. In addition, the plaintiff already has made his position clear in his response to the motion for summary judgment filed by these defendants, as well as in his response to other defendants' motion for summary judgment and in his objections to Magistrate Judge's report regarding other defendants' motion for summary judgment. The Court is aware of the plaintiff's

position and found it to be without merit. The same rationale would apply to the motion for summary judgment by defendants Vasbinder and Lowe. The Court therefore will adopt the magistrate judge's report and recommendation and deny the plaintiff's motion to enlarge the response time.

The parties' failure to file objections to the Report and Recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the matter. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the magistrate judge.

Accordingly, it is **ORDERED** that the Magistrate Judge's Report and Recommendation [dkt # 58] is **ADOPTED**.

It is further **ORDERED** that defendants Vasbinder and Lowe's Motion for Summary Judgment [dkt # 49] is **GRANTED**.

It is further **ORDERED** that the plaintiff's motion for extension of time to file response to the defendants' motion for summary judgment [dkt # 59] is **DENIED**.

It is further **ORDERED** that the remaining defendants Vasbinder and Lowe are **DISMISSED** with prejudice and the plaintiff's case is **DISMISSED** with prejudice.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: March 30, 2009

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on March 30, 2009.

s/Lisa M. Ware
LISA M. WARE